

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

R.J. REYNOLDS TOBACCO COMPANY, *et al.*,

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG
ADMINISTRATION, *et al.*,

Defendants,

CIVIL ACTION NO. 6:20-cv-00176

[PROPOSED] ORDER GRANTING SUMMARY JUDGMENT

For the reasons set forth in Plaintiffs' Motion For Summary Judgment and a Preliminary Injunction, and based on the Court's review of both parties' arguments and the agency record,

IT IS HEREBY ORDERED that Plaintiffs' Motion For Summary Judgment is GRANTED.

The Court hereby

1. DECLARES that the Rule published at 85 Fed. Reg. 15,638 (Mar. 18, 2020) violates the First Amendment, the Administrative Procedure Act, and the Tobacco Control Act, and VACATES that Rule;
2. DECLARES that the Tobacco Control Act's requirement that FDA "issue regulations that require color graphics depicting the negative health consequences of smoking," 15 U.S.C. § 1333(d)[1], and the Act's requirement that the new textual and graphic warnings must occupy the top 50% of the front and back of cigarette packages and the top 20% of cigarette advertising, *id.* § 1333(a)(2), (b)(2), violate the First Amendment;
3. PERMANENTLY ENJOINS Defendants from enforcing the Rule and the Tobacco

Control Act's requirements described above;

4. PERMANENTLY ENJOINS Defendants from enforcing the Tobacco Control Act's new textual warnings, *id.* § 1333(a)(1), (b)(1), as well as the related requirements found in 21 U.S.C. §§ 387c(a)(2), 387t(a), until fifteen months after FDA issues a legally valid rule; and
5. DECLARES that Plaintiffs are permitted to continue using their current cigarette packages and advertising until fifteen months after FDA issues a legally valid rule.

It is SO ORDERED.